

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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TRUSTEES OF EMPIRE STATE CARPENTERS
ANNUITY, APPRENTICESHIP, LABOR-MANAGEMENT
COOPERATION, PENSION and WELFARE FUNDS,

Plaintiffs,

ORDER
13-CV-0035 (ADS)(ETB)

-against-

J&B PAINT CONTRACTING LLC,

Defendant.

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APPEARANCES:

Virginia & Ambinder LLP

Attorneys for the Plaintiff

111 Broadway, 14th Floor – Suite 1403
New York, NY 10006

By: Charles R. Virginia, Esq.
Richard B. Epstein, Esq., Of Counsel

NO APPEARANCE:

J&B Paint & Contracting LLC

SPATT, District Judge.

On January 3, 2013, the Plaintiffs Trustees of Empire State Carpenters Annuity, Apprenticeship, Labor-Management Cooperation, Pension and Welfare Funds (“the Plaintiffs”) commenced this action against the Defendant J&B Paint Contracting LLC (“the Defendant”). The Plaintiffs seek to enforce an arbitration award pursuant to Section 301 of the Labor Management Relations ACT (“LMRA”), 29 U.S.C. § 185; Section 502~~€~~(1) of the Employee Retirement Income Security Act (“ERISA”), 29 U.S.C. § 1132(e)(1); and Section 9 of the Federal Arbitration Act (“FAA”), 9 U.S.C. § 9.

On February 11, 2013, the Clerk of Court noted the default of the Defendant and on February 21, 2013, the Plaintiffs moved for a default judgment. Thereafter, on February 28, 2013, the Court respectfully referred this matter to United States Magistrate Judge E. Thomas Boyle for a

recommendation as to whether the motion for a default judgment should be granted, and if so, (1) whether damages should be awarded, including reasonable attorney's fees and costs, and (2) whether any other relief should be granted.

On June 12, 2013, Judge Boyle issued a Report and Recommendation (the "Report") recommending that the Court (1) enter a default judgment against the Defendant; (2) grant the Plaintiffs' motion for enforcement of the arbitration award against the Defendant; and (3) award the Plaintiffs damages as follows: (a) the total of the arbitration award, \$34,339.62; (b) post-arbitration interest in the amount of \$1,613.57; (c) additional attorney's fees in the amount of \$3,845.00; and (d) costs in the amount of \$466.59, for a total monetary award of \$40,264.78. (Report at 6.) On June 12, 2013, the Plaintiffs served the Report on the Defendant. To date, there have been no objections filed to the Report.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. §636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Boyle's Report and finds it to be persuasive and without any legal or factual errors. There being no objection to Judge Boyle's Report, it is hereby

ORDERED, that Judge Boyle's Report and Recommendation is adopted in its entirety. The Court (1) enters a default judgment against the Defendant; (2) grants the Plaintiffs' motion for enforcement of the arbitration award against the Defendant; and (3) awards the Plaintiffs damages as follows: (a) the total of the arbitration award, \$34,339.62; (b) post-arbitration interest in the amount of \$1,613.57; (c) additional attorney's fees in the amount of \$3,845.00; and (d) costs in the amount of \$466.59, for a total monetary award of \$40,264.78; and it is further

ORDERED, that the Clerk of the Court is directed to enter judgment in favor of the Plaintiffs and against the Defendant J&B Paint Contracting LLC in the total amount of \$40,264.78; and it is further

ORDERED, that the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
September 3, 2013

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge